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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,701	03/29/2001	Naoya Fujisaki	826.1722	3142

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EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT	PAPER NUMBER
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2171

12

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/819,701

Applicant(s)

FUJISAKI, NAOYA

Examiner

Etienne P LeRoux

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-5, 15 and 18 are rejected under 35 U.S.C. 101 for the reasons given below:

MPEP § 2106 states :

Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.

Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. Accordingly, it is important to distinguish claims that define descriptive material per se from claims that define statutory inventions.

Claims 1-5, 15 and 18 are not physically embodied per excerpt from the MPEP. Correction is requested.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-6, 11, 15, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat No 5,832,527 issued to Kawaguchi (hereafter Kawaguchi).

Claims 1, 15, 16 and 18:

Kawaguchi discloses:

- a setting unit setting policy attribute data [col 4, lines 37-43] indicating a policy on which file management is based, in correspondence with path information of a directory [col 4, lines 9-14]
- a file managing unit managing a file based on policy data composed of the path information of the dir3ctory and the policy attribute data [col 4, lines 37-43 and col 4, lines 9-14]

Claim 3:

Kawaguchi discloses wherein information indicating whether or not to require a path search is registered in correspondence with the policy attribute data [Fig 5B, step S306].

Claim 4:

Kawaguchi discloses wherein information indicating whether or not to require a path search is registered in correspondence with the policy attribute data [col 4, lines 9-15]

Claims 5 and 6:

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Kawaguchi discloses wherein checkpoint information indicating path information of a directory yet to be generated is registered to said control table for the directory [Figs 5A – 5C, step S301].

Claim 11:

Kawaguchi discloses wherein information of a total file size of files within a directory is registered as policy attribute data of the directory [Fig 10, col 10, lines 10-15]

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawaguchi in view of US Pat No 6,185,574 issued to Howard et al (hereafter Howard).

Claim 2:

Kawaguchi discloses a setting unit setting attribute data in correspondence with path information of a directory [col 4, lines 9-14].

Kawaguchi fails to disclose an assigning unit assigning policy attribute data of a directory so as to be inherited to a subdirectory, or assigning specified policy attribute data indicating a policy on which file management is based to the subdirectory.

Howard discloses an assigning unit assigning policy attribute data of a directory so as to be inherited to a subdirectory, or assigning specified policy attribute data indicating a policy on which file management is based to the subdirectory [col 7, lines 43-53].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kawaguchi to include an assigning unit assigning policy attribute data of a directory so as to be inherited to a subdirectory, or assigning specified policy attribute data indicating a policy on which file management is based to the subdirectory as taught by Howard.

The ordinarily skilled artisan would have been motivated to modify Kawaguchi per the above for the purpose of forming a virtual file directory [col 7, lines 30-35].

Claim 7:

Kawaguchi discloses wherein when a name of a directory is changed, policy attribute data of a parent directory is inherited to a subdirectory if policy attribute data is not specified for the subdirectory, and specified policy attribute data is assigned to a subdirectory if the policy attribute data is specified for the subdirectory [col 3, line 60 through col 4, line 2]

Claim 12:

The combination of Kawaguchi and Howard discloses the elements of claim 1 as noted above.

The combination of Kawaguchi and Howard discloses wherein when a file is stored in an archive file, policy data composed of patent information of a directory and policy attribute data is stored in the archive file [Howard, abstract]

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Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Kawaguchi and Howard and further in view of US Pat No 6,195,695 issued to Cheston et al (hereafter Cheston).

Claim 13:

The combination of Kawaguchi and Howard discloses the elements of claims 1 and 12 as noted above.

The combination of Kawaguchi and Howard fails to disclose further comprising a registering unit reading and registering the policy data stored as a hidden file in the archive file, when the file is backed up.

Cheston discloses further comprising a registering unit reading and registering the policy data stored as a hidden file in the archive file, when the file is backed up [col 2, lines 43-54].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Kawaguchi and Howard to include further comprising a registering unit reading and registering the policy data stored as a hidden file in the archive file, when the file is backed up as taught by Cheston.

The ordinarily skilled artisan would have been motivated to modify the combination of Kawaguchi and Howard per the above for the purpose of dividing the files into active and not available for current use [Cheston, col 3, lines 50-55].

Claim 14:

The combination of Kawaguchi and Howard discloses the elements of claims 1, 12 and 13 as noted above.

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The combination of Kawaguchi and Howard fails to disclose wherein when a file is restored, comparison is made between path information of a directory to be generated and path information of a directory within the policy data stored as the hidden file in the archive file, and the policy attribute data is set for the directory the path information of which matches.

Cheston discloses restoring from a corrupted executable application and/or operating system (and a resulting crash) [col 2, lines 15-61].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Kawaguchi, Howard and Cheston to include wherein when a file is restored, comparison is made between path information of a directory to be generated and path information of a directory within the policy data stored as the hidden file in the archive file, and the policy attribute data is set for the directory the path information of which matches.

The ordinarily skilled artisan would have been motivated to modify the combination of Kawaguchi, Howard and Cheston per the above for the purpose of restoring a file that becomes corrupted during a system crash.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Kawaguchi and Howard and further in view of US Pat No 6,018,741 issued to Howland et al (hereafter Howland).

Claim 8:

The combination of Kawaguchi and Howard disclose the elements of claimed 1 and 2 as noted above.

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The combination of Kawaguchi and Howard fails to disclose whether or not to require inheritance is predefined for the policy attribute data; and policy attribute data of a parent directory is assigned so as to be inherited to a subdirectory if the policy attribute data of the parent directory is data which is requested to be inherited, or specified policy attribute data is assigned to the subdirectory if the policy attribute data of the parent directory is data which is not requested to be inherited.

Howland discloses whether or not to require inheritance is predefined for the policy attribute data; and policy attribute data of a parent directory is assigned so as to be inherited to a subdirectory if the policy attribute data of the parent directory is data which is requested to be inherited, or specified policy attribute data is assigned to the subdirectory if the policy attribute data of the parent directory is data which is not requested to be inherited [claim 1].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Kawaguchi and Howard per the above for the purpose of assigning different attributes to the child node when it is moved from one parent node to another parent node [claim 1] .

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawaguchi in view of US Pat No 5,959,860 issued to Styczinski (hereafter Styczinski).

Claim 9:

Kawaguchi discloses the elements of claim 1 as noted above.

Kawaguchi fails to disclose further comprising a policy violation registering unit registering policy violation information indicating a policy attribute violation to corresponding policy attribute data, if a file operation which violates the policy attribute data is performed.

Styczinski discloses further comprising a policy violation registering unit registering policy violation information indicating a policy attribute violation to corresponding policy attribute data, if a file operation which violates the policy attribute data is performed [col 5, line 55 through col 6, line 4].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kawaguchi to include further comprising a policy violation registering unit registering policy violation information indicating a policy attribute violation to corresponding policy attribute data, if a file operation which violates the policy attribute data is performed as taught by Styczinski.

The ordinarily skilled artisan would have been motivated to modify Kawaguchi per the above for the purpose of recovering from a power failure [col 5, lines 40-55]

Claim 10:

Kawaguchi discloses the elements of claim 1 as noted above.

Kawaguchi fails to disclose further comprising a policy recovering unit causing a file or a directory which violates a policy to comply with the policy, and deleting corresponding policy violation information.

Styczinski discloses recovery from a power system failure [col 5, lines 40-55].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Kawaguchi and Styczinski to include further

comprising a policy recovering unit causing a file or a directory which violates a policy to comply with the policy, and deleting corresponding policy violation information.

The ordinarily skilled artisan would have been motivated to modify the combination of Kawaguchi and Styczinski per the above for the purpose of maintaining the update list in a current status.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawaguchi in view of Howland.

Claim 17:

Kawaguchi discloses setting policy attribute data indicating a policy on which file management is based, in correspondence with path information of a directory [col 4, lines 9-43].

Kawaguchi fails to disclose assigning at least one of policy attribute data for files I the directory to be inherited to a subdirectory, and assigning specified policy attribute data for files in the subdirectory to a corresponding subdirectory when moving the directory.

Howland discloses assigning at least one of policy attribute data for files I the directory to be inherited to a subdirectory, and assigning specified policy attribute data for files in the subdirectory to a corresponding subdirectory when moving the directory [col 3, lines 8-12]

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kawaguchi to include assigning at least one of policy attribute data for files I the directory to be inherited to a subdirectory, and assigning specified policy attribute data for files in the subdirectory to a corresponding subdirectory when moving the directory as taught by Howland.

The ordinarily skilled artisan would have been motivated to modify Kawaguchi per the above for the purpose of reducing the number of levels in the tree structure to in to expedite searching.

Response to Arguments

4. Applicant's arguments filed March 8, 2004, have been fully considered but they are moot based on supra new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (703) 305-0620. The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Etienne LeRoux

4/14/2004

